

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ELEAZAR P. MENESSES,

Defendant.

4:12CR3065

MEMORANDUM AND ORDER

Defendant has moved for an Order extending time to file objections to the Magistrate Judge's Findings and Recommendation of November 15, 2012, (Filing No. 38), because due to the holidays, defense counsel needs additional time to fully consider and draft his objections and supporting brief. The defendant has also moved to continue the trial to allow sufficient time for the Court to rule on the objections and then determine if there are any alternatives to trial in this case. (Filing No. 39). Based on the showing set forth in the motions, the court finds the motions should be granted. Accordingly,

IT IS ORDERED:

- 1) Defendant's motions to continue, (filing nos. 38 & 39), are granted.
- 2) Defendant's objections and supporting brief to the Findings and Recommendation on defendant's motion to dismiss, (Filing No. 19), shall be filed on or before December 3, 2012.
- 3) The trial of this case is set to commence before the Honorable John M. Gerrard, United States District Judge, in Courtroom 1, United States Courthouse, Lincoln, Nebraska, at 9:00 a.m. on February 19, 2013, or as soon thereafter as the case may be called, for a duration of four (4) trial days. Jury selection will be held at commencement of trial.
- 4) The ends of justice served by granting the motion to continue outweigh the interests of the public and the defendant in a speedy trial, and the additional time arising as a result of the granting of the motion, the time between today's date and February 19, 2013, shall be deemed excludable time in any computation of time under the requirements of the Speedy Trial Act, because despite counsel's due diligence, additional time is needed to adequately prepare this case for trial and failing to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(7)(A) & (B).

November 25, 2012.

BY THE COURT:
s/ Cheryl R. Zwart
United States Magistrate Judge